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September 30, 1974

BOSTON REDEVELOPMENT AUTHORITY

Tabulation of Bids

SITE PREPARATION CONTRACT "L," SOUTH COVE MASS. R-92

Opened and read aloud at the Office of the Boston Redevelopment Authority, Boston City Hall, One City Hall Square, Monday, September 30, 1974 at Twelve Noon EDST.

CONTRACTOR	PROPOSED CONTRACT SUM	BID SECURITY CHECK
Mario Susi & Son, Inc.	$ 608,340.00	$ 30,417.00
M & C Division Browning-Ferris Industries, Inc.	729,262.50	37,500.00
Frank Frederick Construction Co.	748,775.00	37,500.00
State Street Engineering Corp.	771,495.00	40,000.00
Center Construction Corp.	841,940.00	55,000.00
R. A. Buccella & Sons, Inc.	890,157.00	44,510.00
Cicconi Construction Corp.	906,475.50	46,000.00

INTER-OFFICE COMMUNICATION

TO Messrs. Simonian and Johnson

FROM Mary

DATE 9/30/74

SUBJECT BID OPENING NOON SITE PREP "L," SOUTH COVE

RECEIVED
1974 SEP 30 AM 9:25
BOSTON REDEVELOPMENT AUTHORITY

CONTRACTORS WHO TOOK OUT PLANS AND SPECS:

WALES CORP.

GATSON ELECTRIC CO.

CENTER CONSTRUCTION CORP.

JOHN PALUMBO CO.

TRAFFIC ENGR. & SALES INC.

R. A. BUCCELLA & SONS

CICCONI CONSTRUCTION CORP.

MARIO SUSI & SON

STATE ST. ENGR. CORP.

MODERN CONTINENTAL CONSTRUCTION

FRANK FREDERICK CORP.

M & C DIVISION

JOHN FRANKLIN

RICHARD WHITE SONS

DICK HONG, ENGINEER; ESTIMATE AS OF JULY 18, $1,200,000.

265-5020 696-0902

Mario Susi & Son, Inc.
EXCAVATING CONTRACTOR
36 WESTWOOD STREET -:- DORCHESTER, MASS. 02121

October 15, 1974

Boston Redevelopment Authority
City Hall
1 City Hall Square
Boston, Massachusetts 02201

Attn: Robert T. Kenney/Director

Re: Contract L South Cove Project, Boston

Dear Sir:

Bids were opened recently for the subject project. Our corporation, Mario Susi & Son, Inc. submitted the lowest bid of seven bids received. Our submitted bid was in the amount of $608,340.00, which amount is $120,922.50 lower than the bid submitted by the second lowest bidder and $298,135.50 lower than the bid submitted by the highest bidder. It can readily be observed that the bid submitted by us is considerably lower than the bids submitted by the other bidders.

I am enclosing herewith a copy of a Notice to Bidders Re: Joint Venture signed by Robert T. Kenney, Director which was mailed to us by the Boston Redevelopment Authority and received by us subsequent to the opening and reading of bids for the subject project. This Notice will be referred to hereafter simply as "Notice."

The final paragraph of this "Notice" states as follows: "Therefore the Boston Redevelopment Authority encourages that the winning bidder, of contract L South Cove project, prepare to enter into a joint venture agreement with a selected responsible minority contractor." (Emphasis supplied)

We respectfully submit Sir, that since the "winning bidder" of contract L South Cove project, could not be determined until all the bids submitted for the said project have been opened and read, the effect of the last paragraph of the "Notice" as quoted above is that

> The Boston Redevelopment Authority encourages that the winning bidder, of contract L South Cove project, prepare to enter into a joint venture agreement with a selected responsible minority contractor after the opening of bids.

The "Notice," in the first paragraph thereof incorporates by reference Executive Order of the President No. 11246 as amended by 11375 requiring execution of Affirmative Action to provide Equal Employment

Mario Susi & Son, Inc.
EXCAVATING CONTRACTOR
36 WESTWOOD STREET -:- DORCHESTER, MASS. 02121

Opportunity and prevent discrimination regardless of race, sex, religion, color or national origin.

We have copies of the said Executive Order of the President and nowhere could we find a requirement to accomplish the stated purpose that a "winning bidder" prepare to enter in a joint venture agreement with a selected responsible minority contractor after the opening of bids for the project under consideration for award.

The "Notice" also incorporates by reference in the first paragraph thereof, The Boston Redevelopment Authority, Equal Opportunity Compliance Policy, Adopted February 20, 1969, Revised September 7,1972. An examination of this Policy discloses the following statements in Paragraph I thereof and I Quote: "The Authority whenever possible will solicit minority contractors to submit bids and proposals for any of the above-mentioned contracts." "The Authority will propose co-venturing and joint venturing with minority contractors whenever possible."

We admit Sir, that the goals quoted above are indeed desirable and we express our sympathy with the quoted policy for the purpose of achieving Equal Employment Opportunity and preventing discrimination.

The second paragraph of the "Notice" states as follows: "An integral section of this policy urges and encourages joint venturing with minority contractors". We agree that the policy as quoted above is as stated.

We have engaged in joint ventures and have submitted bids on many projects as a joint venture. We have been awarded contracts on many projects as a joint venture by other awarding authorities whenever it was determined that we were the lowest responsible and eligible bidder. We are fully aware of what is involved in joint ventures. We feel sure sir, that you, too, are fully conversant with joint ventures. In a joint venture there must be a community of interests in the objects or purposes of the undertaking and an equal right to govern the movements and conduct of each other with respect thereto; and must have some voice and right to be heard in its control or management. The term is used to express a common property interest enjoyed or a common liability incurred by two or more persons. It is one in which the obligors bind themselves jointly but not severally with regard to the project undertaken by the joint venutre.

We do not agree that the last paragraph of the "Notice" which encourages the "winning bidder" of Contract L South Cove Project, to prepare to enter into a joint venture agreement with a selected responsible minority contractor after the bid opening is in compliance with your stated Policy adopted February 20, 1969, revised September 7, 1972. For what project is the joint venture submitting bids?

Mario Susi & Son, Inc.
EXCAVATING CONTRACTOR
36 WESTWOOD STREET -:- DORCHESTER, MASS. 02121

We respectfully submit Sir, that the requirement stated in the last paragraph of the "Notice" is, in our opinion, contrary to accepted bidding practices and recognized contract procedures. The "Notice" does not supply any pertinent information to a bidder. It does not state who will select the minority contractor, or give any information as to the identity of the contractor with whom the winning bidder should be prepared to enter into a joint venture agreement. It neglects to state what Project will be the subject of the joint venture agreement. The "Notice" is silent regarding who will determine the responsibility of the proposed and selected joint venturer. No information is furnished as to his financial resources, experience, and the equipment, if any, which he has available to perform work on the project. Will the proposed joint venture have privity of contract with the Boston Redevelopment Authority? If the "winning bidder" of Contract L, South Cove Project, on the basis of the submitted bids already publicly opened and read, does enter into a joint venture agreement with a selected responsible minority contractor, to whom will the Contract for the said project be awarded? Will it be the "winning bidder" on the joint venture entity who as such an entity submitted no bids for the subject project? Who will be required to furnish the Performance and Payment Bonds for the subject project?

We will not trespass on your time any further by raising additional questions. The ones we have asked should be sufficient to illustrate the lack of information regarding relevant matters regarding which any contractor or bidder would like to be advised about.

In the first paragraph of this letter I stated that our bid is $120,922.50 lower than the bid submitted by the second lowest bidder, and considerably more lower than the bids submitted by the remaining bidders. This was probably due to the fact that we did not receive the "Notice" until after the opening of bids for the subject project.

It is our considered opinion that the bidders who received the "Notice" must have considered the requirements of the "Notice" as involving a risk. We reach this conclusion because of the vast difference between the bids submitted by us and the other bidders. It is probable that the other bidders included a "cushion" in their bid prices to protect themselves against that which they considered a risk involved in the "Notice" they had received. If they suffered any financial damage the undisclosed "cushion" will serve its purpose; on the other hand that sum would be a windfall to them if the project could be completed without their suffering any damages. Such a "cushion" would necessarily raise the cost of the work to the municipality without producing a commensurate accomplishment of the project. We feel fully confident that you as a responsible public official will consider the observations we have made regarding the effect of the "Notice" and that you will undertake the serious function of establishing public policy for the prudent expenditure of public funds involved in the awarding of contracts.

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265-5020 696-0802

Mario Susi & Son, Inc.
EXCAVATING CONTRACTOR
36 WESTWOOD STREET -:- DORCHESTER, MASS. 02121

In conclusion, I would like to inform you that Mario Susi & Son,Inc. has satisfactorily completed several million dollars worth of work for the Boston Redevelopment Authority and that the work was completed prior to the expiration of the allotted time.

We have always complied with the Bid Condition relative to Affirmative Action Requirements for Equal Employment Opportunity in connection with the Boston Plan. We have members of a minority group on our payroll year round.

When we bid on Contract L, South Cove we submitted the required Bidders' Certification regarding Affirmative Action.

Trusting that you will consider us for the award of Contract L, South Cove, Boston as the lowest responsible bidder.

Respectfully submitted,
MARIO SUSI & SON, INC.
By _____, Pres.

attachment

cc: Mr. Kane Simonian/Executive Director
Mr. Wallace B. Orpin/Dir. of Engr'g.
Mr. Robt. L. Farrell/Chairman
Mr. Joseph J. Walsh/Vice-Chairman
Mr. J.G. Colbert/Treausrer
Mr. P.J. Burns/Asst. Treasurer
Mr. James K. Flaherty/Member
Mr. R.C. Hong/Project Engineer

Boston Redevelopment Authority

Robert T. Kenney / Director

City Hall
1 City Hall Square
Boston, Massachusetts 02201
Telephone (617) 722-4300

NOTICE TO BIDDERS

RE: JOINT VENTURE

TO ASSURE EXECUTION OF AFFIRMATIVE ACTION TO PROVIDE EQUAL EMPLOYMENT OPPORTUNITY AND PREVENT DISCRIMINATION REGARDLESS OF RACE, SEX, RELIGION, COLOR OR NATIONAL ORIGIN, IN ACCORDANCE WITH EXECUTIVE ORDER OF THE PRESIDENT NO. 11246 AS AMENDED BY 11375 THE BOSTON REDEVELOPMENT AUTHORITY ESTABLISHED AN EQUAL OPPORTUNITY COMPLIANCE POLICY, ADOPTED FEBRUARY 20, 1969, REVISED SEPTEMBER 7, 1972.

AN INTEGRAL SECTION OF THIS POLICY URGES AND ENCOURAGES JOINT VENTURING WITH MINORITY CONTRACTORS.

THEREFORE THE BOSTON REDEVELOPMENT AUTHORITY ENCOURAGES THAT THE WINNING BIDDER, OF CONTRACT L SOUTH COVE PROJECT, PREPARE TO ENTER INTO A JOINT VENTURE AGREEMENT WITH A SELECTED RESPONSIBLE MINORITY CONTRACTOR.

ROBERT T. KENNEY
DIRECTOR

FRANKLIN EXCAVATING CORP.
88 WILLIAMS AVENUE
LYNN, MASS.
PHONE: 598-1043

RECEIVED
SEP 11 1974
BOSTON REDEVELOPMENT AUTHORITY
OFFICE OF THE DIRECTOR

September 6, 1974

Mr. Robert Kenney
Director
Boston Redevelopment Authority
City Hall
Room 900
1 City Hall Square
Boston, 02201

Re: Site preparation, Contract L, South Cove

Dear Bob:

As you may remember from the extensive work we undertook with you as Director of Public Facilities, the Franklin Excavating Corporation is an experienced and capable excavating and site preparation minority contractor. We have in the past, been bonded for city work, and our projects have included work on Contract 7, Tremont Street and Harrison Avenue Street Lighting; the Heath Street School; and the Joseph Lee School.

Franklin Excavating is interested in pursuing, pursuant to the BRA's commitment to encourage majority/minority joint ventures for site preparation contracts as expressed in the BRA Equal Opportunity Compliance Policy as revised September 7, 1972, a joint venture with a majority contractor for the site preparation of the Contract L, South Cove project. We believe the size of this project merits such a joint venture, and our proven capability in this area makes us an excellent choice for such work.

Plans for this project will become available on September 11, 1974, with bidding opening on September 30. Could we get together, at your earliest convenience, to discuss work on this project? We believe a great opportunity exists here for us to assist in the fulfillment of the BRA's commitment to assist in the formulation of majority/minority joint venturing, and we look forward to hearing from you.

Sincerely,

John Franklin, Jr.
President

cc: Paul Parks, Model Cities
Roy Neblett, Contract Compliance, BRA
Charles Harleston, HUD
James Allison, Contractors Association of Boston